

The Board of Supervisors of Maricopa County, Arizona convened in Informal Session at 9:00 a.m., April 4, 2005 in the Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Max W. Wilson, Chairman, District 4; Don Stapley, Vice Chairman, District 2, Fulton Brock, District 1; Andrew Kunasek, District 3, and Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board; Juanita Garza, Minutes Coordinator; David Smith, County Manager; and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-nay-absent-abstain).

NOISE ORDINANCE FOR UNINCORPORATED MARICOPA COUNTY

Authorize the Planning and Development Department to prepare a noise ordinance for unincorporated Maricopa County. (C4405016000) (ADM131)

Joy Rich, Regional Development – Assistant County Manager
Matthew Holm, Planning Manager

Joy Rich briefly discussed the need to adopt a noise ordinance for Maricopa County. She reported that Maricopa County has a barking dog ordinance and construction ordinance on the book, but no noise ordinance. She read the barking dog ordinance (which is very brief) and commented on the provisions of this ordinance. Her staff did a survey on noise ordinances and found that many cities have some type of noise ordinance. She asked the Supervisors for feedback as to what kind of noise ordinance they would like to see, what things they want to regulate and what types of enforcement they want in the County's noise ordinance.

Matthew Holm, presented results from the noise ordinance survey that was conducted both within the County and outside the County. The survey compiled similarities between the ordinances in order to build a framework for a Maricopa County noise ordinance. Mr. Holm pointed out a list of jurisdictions that were surveyed within the County and throughout the State of Arizona, and looked at similar features of applicability such as, sources of noise, time of noise and range of noise, with an exception for other types of noise such as, A/C units, pool pumps and sirens. Matt also looked at enforcement mechanisms and potential consequences for non-compliance. Mr. Holm said that law enforcement could be authorized to enforce penalties and fines with reasonable cause. These components were consistent in all of the ordinances.

In response to a question from Supervisor Stapley on how long Pima County's noise ordinance has been in existence and how successful it has been without enforcing any fines or penalties, Mr. Holm replied that he was not sure how long Pima County's ordinance has been in existence, and was surprised to see that penalties or fines were not enforced.

Supervisor Kunasek asked what authority the County has to enact an ordinance without having to go to State for approval. Terry Eckhardt, Deputy County Attorney, replied that he talked to Pima County about their authority to implement an ordinance and found that Pima County's ordinance falls under their general safety and welfare rule.

Suggestion was made to the Chairman to direct staff to come back with a model ordinance. Chairman Wilson said he would like to see a copy of the Pima County noise ordinance to have a better understanding of how it works.

Supervisor Kunasek asked if Maricopa County's noise ordinance would be applicable to the cities and towns that don't have an ordinance or if they could use or cite under the County's ordinance. Terry Eckardt replied that they could possibly enter into an IGA with the County, but it would probably be easier if they adopted their own ordinance.

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Supervisor Wilcox voiced her concern on the wording of the ordinance so that people do not abuse it by using it as a nuisance ordinance. She supports the need for a noise ordinance.

Supervisor Brock asked what prompted the need for a noise ordinance in the unincorporated area, and also requested more information and background to have a better understanding for the need of a noise ordinance. The response was that when the unincorporated areas became more populated and noisier, the quality of life in these residential areas was affected and requests for some kind of noise regulation were received.

Supervisor Stapley asked how the ordinance would deal with noise in the area of a mining operation with large crushers; the response was that there is no effective way to deal with the noise problem in those areas. All exempt districts would be difficult to regulate with a noise ordinance.

~ Supervisor Wilcox left the meeting ~

Chairman Wilson expressed his thoughts for the need of a noise ordinance that would work for the unincorporated areas of the county. This type of ordinance could help solve some neighbor-to-neighbor issues. He said that in order for this plan to be successful, penalties or fines need to be strongly enforced.

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and carried unanimously (4-0-1), (Supervisor Wilcox was absent for the vote), to direct Planning and Development to prepare a proposed plan for a noise ordinance. Supervisor Kunasek's second was with the understanding that it would proceed through the planning commission. Ms. Rich explained that this was not a planning and zoning issue and would stand on its own as a noise ordinance. She stated that they would work on a draft and bring it to the Board for review.

Supervisor Kunasek asked if under the planning and zoning arena the noise ordinance would be applicable in issuing special use permits and granting stipulations for special zoning cases. Ms. Rich explained that certain parameters would be set that would provide for exemptions to allow setting a time restriction for loud noises.

Supervisor Brock commented that the health safety and welfare issue needs to allow for some latitude regarding the many complaints received from people who are new to this area – smells coming from the dairies and the existence of the dairies that have been located in the same area for years – these are things that need to be balanced with growth and he would like these factors to be taken into consideration in the new noise ordinance as well.

EXECUTIVE SESSION CALLED

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (4-0-1) to recess and reconvene in Executive Session to consider items listed on the Executive Agenda dated April 4, 2005, pursuant to listed statutory authority, as follows.

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION -- ARS §38-431.03(A)(3) AND (A)(4)

Compromise Cases – Barbara Caldwell, Outside Counsel

Aiassa, Robert
Brown, Cloyde

Bang, Won II
Conradson, Talley

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DeLaTorre, Julia
DeLaTorre, Teresa
Hunter, Lynn
Maguire, Brandon C.
Martinez, Anna
Riggins, Tatianna
Smallwood, Andrea
Uptain, Leslie

DeLaTorre, Miquel
Garcia, Manual
Lim, Rita
Martin, Rufina
Martinez, Gabriel
Sanford, Joe
Stahle, John

Write-Off Cases – Barbara Caldwell, Outside Counsel

Andreasen, Warner
Arrowwood, Ryan

Arrowwood, Barbara

**Michael Walters v. Maricopa County
Yavapai County Superior Court No. CV00-0396**

Brian Kaven, Outside Counsel
Peter Crowley, Risk Manager
Patrick Spencer, Claims Manager

PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO NEGOTIATION -- ARS §38-431.03(A)(4)

**Rafael Gaxiola v. Maricopa County
Superior Court No. CV 2004-013891**

Richard Stewart, Deputy County Attorney, County Counsel
Peter Crowley, Risk Manager
Patrick Spencer, Claims Manager

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT DISCUSSIONS
CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION -- ARS §38-431.03(A)(3) AND (A)(4)**

**Angeline Cervantes, et al. v. State of Arizona, et al.
U.S. District Court No. CV04-1811-PHX-RGS**

Richard Stewart, Deputy County Attorney, County Counsel
Lisa Stelly Wahlin, Deputy County Attorney, County Counsel
Peter Crowley, Risk Manager
Patrick Spencer, Claims Manager

Settlement Agreement between Pharmacy Director, Correctional Health Services and Maricopa County

David Smith, County Manager
Gwynn Simpson, Human Resources Director
Lindy Funkhouser, CHS Contract Administrator
Elizabeth Yaquinto, Deputy County Attorney, County Counsel

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MEETING ADJOURNED

After discussion on the above items and there being no further business to come before the Board, the meeting was adjourned.

ATTEST:

Fran McCarroll, Clerk of the Board

Max W. Wilson, Chairman of the Board